

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX**

PARSONS PROJECT SERVICES, INC.¹

Employer

and

UNITED MINE WORKERS OF AMERICA,
INTERNATIONAL UNION, AFL-CIO, CLC

Case 6-RC-11705

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before David L. Shepley, a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.²

Upon the entire record³ in this case, the Regional Director finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

¹ The name of the Employer appears as amended at the hearing.

² Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by August 26, 1999.

³ The Employer and the Petitioner filed timely briefs in this matter which have been duly considered by the undersigned.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

The Petitioner seeks to represent a unit, as amended at the hearing, of all full-time and regular part-time engineering technicians I, II, III, IV and V employed by the Employer at the United States of America Department of Energy Bruceton facility, Allegheny County, Pennsylvania, excluding all office clerical employees and guards, professional employees and supervisors as defined in the Act. While the parties are otherwise in agreement as to the scope and composition of the unit, the Employer contends, contrary to the Petitioner, that the five engineering technicians V's (techs V's) are supervisors within the meaning of the Act and therefore must be excluded from the petitioned-for unit. The Employer further contends, contrary to the Petitioner, that the two engineering technicians IV who function as analytical chemists must be excluded from the petitioned-for unit in that they do not share a community of interest with the other engineering technicians.⁴ There are approximately 37 employees in the petitioned-for unit, which number includes the employees who are in dispute. There is no history of collective bargaining for any of the employees involved herein.

The Employer, a California corporation, with its principal office located in Pasadena, California, provides research and development services for the United States Department of Energy at the Federal Energy Technology Center (the Bruceton facility) located in South Park, Pennsylvania. These services have been provided pursuant to successive contracts between the Department of Energy and the Employer, the most recent of which became effective July 19, 1999. At the Bruceton facility, the Employer is responsible for the design, building, installation,

⁴ The parties have stipulated, and I find, that tech IV W. Walker has a community of interest with the other engineering technicians and is properly included in the petitioned-for unit.

operation and maintenance of research and development test facilities related to energy and the environment. The Bruceton facility consists of a number of separate buildings situated on a 160 acre campus.

Douglas Reehl serves as the Employer's Program Manager at the Bruceton facility, and is the senior management representative on-site. Reporting directly to Reehl are a number of management personnel, including Operations Manager Richard Valdisera. Reporting to Valdisera are the tech V's at issue herein, William Brown, Paul Dieter, Ronald Hirsh, Dennis Nodd and Charles Stoneking, each of whom works with a crew of lower ranked engineering technicians. Also reporting directly to Reehl is Technical Manager Fred Gromicko. Among the personnel reporting to Gromicko is the Group Leader for the analytical chemists, Deborah Hreha. Reporting to Hreha are degreed chemists and the two tech IV's who function as analytical chemists whose status is at issue herein, Thomas Beatty and Donald Kirkland.

Supervisory Status of Tech V's

In general, the engineering technicians build, operate and maintain the experiments. They perform various tasks, including electrical work, pipefitting, welding, instrumentation work, and operation of the units. The technicians are divided into groups or crews, under the leadership of a tech V, with each crew generally performing a particular task. Specifically, clean-up tasks are performed by William Brown's crew, tasks associated with coal preparation are performed by Paul Dieter's crew, tasks associated with the hydrotreater test facility and a test facility designed to turn syngas into liquid fuel⁵ are performed by Ronald Hirsh's crew, tasks associated with the CERF unit are performed by Dennis Nodd's crew, and electrical and instrumentation tasks are performed by Charles Stoneking's crew. As a result of these different functions, certain crews tend to be comprised of the same employees, while other crews tend to vary in composition. Thus, the size and composition of Brown's and Nodd's crews tend to vary, while the crews working under Dieter and Stoneking tend to remain the same. The crew

⁵ This is the Fischer-Tropsch unit.

working under Hirsh tends to remain the same, but when the unit is operating, Hirsh's crew is supplemented with other employees. Further, within certain crews, some employees tend to perform the same duties all the time, as with tech IV Edward Smerkol and tech II Bruce Blednick operating the Fischer-Tropsch unit.⁶

The tech V's are paid hourly and earn \$22.43 per hour, as set by the contract between the government and the Employer.⁷ All employees on site, including the tech V's, have the same benefit package. All of the technicians generally work a daylight shift, 7 a.m. to 3 p.m., but some test operations require 24 hour coverage. Although the Employer currently refers to the tech V's as "group leaders" they were formerly referred to as "supervisors" and there has been no change in their duties.⁸

Valdisera creates a weekly work schedule listing the tasks each crew is to perform and the employees assigned to each crew. In creating the schedule, Valdisera considers input from the tech V's as to specific job requirements, such as the need for a welder or the need for a technician to perform electrical work. Further, Valdisera provides tech V Brown with priorities for the electrical and instrumentation tasks. The tech V's assign the different work tasks to their crew members based upon their assessment of the nature of the task and the skill and ability of the crew members.⁹ With regard to the staffing of the crews, in the event that a particular crew requires additional manpower, the tech V in charge of that crew can informally arrange with

⁶ Smerkol described his duties as follows: maintaining the unit, running the unit, acquiring the data, maintaining the electrical functions and instrumentation, buying parts, ordering items, delegating work to Blednick, interfacing with the engineers, and providing information to the tech V.

⁷ The tech IV's are paid \$19.58 per hour.

⁸ The tech V's are designated as "engineering technicians V" on the Employer's payroll records.

⁹ The electrical and instrumentation crew operates somewhat differently in this regard. While tech V Stoneking assigns tasks to the technicians performing electrical work, tech IV Raymond Usiak assigns tasks to the technicians performing instrumentation work.

another tech V to “borrow” an employee.¹⁰ In the event of a 24 hour test operation, the tech V’s determine the staffing of the shifts.

In general, the tech V’s are responsible for overseeing the work of their crews. In the course of their duties, if the tech V’s observe an employee performing a particular job improperly, they will provide the necessary assistance and training to correct the problem. The tech V’s perform some hands-on work, the amount of which varies depending on the nature of the particular task and the availability of manpower. In the course of performing their duties, the tech V’s interface with the engineers; however, the other lower ranked technicians also interface with the engineers to varying degrees.

Of great concern to the Employer is the safety of its employees, and the tech V’s are responsible for ensuring the safety of their crews. The tech V’s thus train the crews in safety, as well as in the specific operation and maintenance of the unit. If the tech V’s observe any employees engaging in unsafe behavior, they take corrective action. In fact, all employees are obligated to take the appropriate action if they observe any unsafe conduct.

Further, the tech V’s complete accident and incident reports, in which they report the results of all accidents, injuries and similar incidents and indicate the appropriate corrective action. These forms are then forwarded to Valdisera, the Safety Engineer, the Technical Manager and Reehl. In addition, the tech V’s are continually responsible for observing any physical and mental conditions of employees which would affect the fitness of employees for duty. In the event that the tech V’s become aware of such an impairment, they are to discuss the matter with the employee, document the situation and forward the information to Valdisera. If necessary, the tech V’s are authorized to send an impaired employee home.

The tech V’s have separate offices, with desks, computers and files.¹¹ The amount of time the tech V’s spend in their offices is difficult to quantify, but may be an hour or two a day.

¹⁰ Tech V’s Brown and Nodd testified that normally Valdisera is involved in moving employees between crews.

¹¹ Tech V’s Brown and Nodd share an office.

Although the Employer has a buyer who orders materials, the tech V's also contact vendors regarding the purchase of specific items.¹² The other technicians also contact vendors, although this occurs to a lesser extent than with the tech V's.

Hiring decisions are made by Program Manager Reehl after discussion with Operations Manager Valdisera. Valisera selects applicants for interview, and conducts the interviews. The tech V's give the applicants a tour of the facility and during this tour, they attempt to assess the applicant's technical knowledge. The tech V's then complete a departmental interview appraisal form¹³ in which they comment on the applicant's education, work experience, and relevant job factors. The form also asks the tech V to recommend whether or not the applicant should be hired. Valdisera estimates that Reehl gives the appraisal by the tech V equal weight to Valdisera's appraisal.

There were five such departmental appraisal interview forms introduced into evidence. Of these, there was one on which tech V Nodd recommended that the applicant be hired, but the applicant was not hired. Further, of these five forms, there were two on which Nodd recommended, with qualification, that the applicants be hired, but neither applicant was hired. Finally, of these five forms, there was one on which tech V Hirsh recommended that the applicant not be hired, but the applicant was nevertheless hired.

It is the Employer's practice to have annual performance evaluations for the engineering technicians. The tech V's complete these evaluations for the lower ranked technicians assigned to their crews. These evaluations have a number of job performance criteria and the technicians are rated on a non-numeric scale. The evaluations contain space for comments by the evaluator, and although they do not ask for a recommendation for promotion, the tech V's

¹² As noted above in footnote 9, the electrical and instrumentation crew operates somewhat differently than the other crews, and in addition to tech V Stoneking having an office, tech IV Usiak also has an office and orders parts from vendors on a regular basis. In addition, tech IV Edward Smerkol testified that he has an office.

¹³ Tech V Brown testified that he has never completed such a form.

have used the comment section to indicate a recommendation for promotion of certain employees.¹⁴

After the tech V completes the evaluation, the tech V discusses it with the employee evaluated, who then signs the evaluation. It is then forwarded to Valdisera and/or Reehl for their signatures and ultimately becomes part of the Employer's personnel records. While Reehl and Valdisera retain the authority to change performance evaluations, it is very rare for them to make such changes.

The performance evaluations are not used as a basis for wage increases for the technicians inasmuch as all wage rates are set by the government contract by reference to the Service Contract Act prevailing wage rate determinations. However, the performance evaluations are considered when there is an opportunity for promotion.¹⁵ The opportunity for promotion, and the resultant wage increase, is outside the control of the Employer, and rests with the government.

Thus, the record reveals that on two occasions tech V's have used the comment section of the performance evaluations to recommend tech IV's for promotion to tech V. These individuals were not promoted and at the time, there was no tech V vacancy available. Thus, it cannot be determined what impact, if any, the performance evaluation would have had on promotion.

In addition to the performance evaluations, on one occasion the Employer polled the tech V's in order to evaluate employees for promotion. Thus, at one point in May of 1997, there was an opportunity to promote several tech II's to tech III. To try to insure that all tech II's were given the same consideration, Valdisera created an evaluation summary form in which the tech V's used a numeric scale to rank the tech II's on skills and personal attributes. Although the

¹⁴ Tech V's have also submitted unsolicited letters of recommendation for promotion on behalf of lower ranked employees.

¹⁵ As discussed in the text *infra*, Program Manager Reehl makes the final decision as to which employees are promoted.

form did not contain a comment section, several of the tech V's also wrote comments about the employee. The tech V's were not required to sign the forms, and the forms did not become part of the Employer's personnel records.

The anticipated promotions were delayed until about 13 months later, but at that time, three tech II's were promoted to tech III. These promotion decisions were made by Reehl, after discussion with Valdisera. Valdisera estimated that his input to Reehl was based on his personal observations (accounting for about 20 percent) and the annual performance evaluations and May 1997 polling (accounting for about 50 and 30 percent, respectively).

In a similar fashion, when the Employer found it necessary to lay off employees in the fall of 1996, Valdisera asked the tech V's to identify those technicians who were performing poorly. In this case, the communication between Valdisera and the tech V's was oral and not documented.

Serious disciplinary issues are handled by Reehl and Valdisera. The tech V's resolve minor disciplinary issues with their crews. For example, if an employee is tardy or is "goofing off" or if employees are arguing, the tech V speaks to the employees. Such verbal counseling is not documented. Further, when unable to resolve matters themselves, the tech V's have made reports of disciplinary problems to Valdisera. Specifically, tech V Brown complained to Valdisera about an employee's unexcused absences and sleeping on the job, providing Valdisera with the specific details of the absences. Brown requested that some disciplinary action be taken, but made no specific recommendation as to the nature of the discipline that should be imposed. Valdisera discussed the matter with Reehl and they decided to issue a memorandum, under Valdisera's signature, imposing a 30 day disciplinary probation. This was the sole written discipline introduced into the record.

In general, overtime is authorized by Valdisera and an engineer. In other circumstances, the tech V's can authorize overtime, as in the event of an emergency, or a test operation requiring 24 hour coverage. In at least one other circumstance, a tech IV has worked overtime without authorization from a tech V or upper management. The Employer has a policy of

permitting flex time under certain circumstances. Thus, in the summer, about a quarter of the technicians have elected to work 5 a.m. to 1 p.m. instead of 7 a.m. to 3 p.m. on Fridays. This practice has been approved by Valdisera. In addition, upon an employee's request, the tech V can grant an employee permission to start or leave work early. The tech V's initial the weekly time sheets to verify the accuracy of the sheet.

As noted, safety is of great concern to the Employer, and accordingly the Employer has provided safety training for the tech V's. The Employer has not provided specific supervisory training to the tech V's; however, at his own request, one of the tech V's has attended supervisory training courses off-site. The Employer has conducted some meetings for the tech V's dealing with such things as safety records and the transition to the new government contract.

It is well-established that the possession of any one of the indicia of supervisory authority specified in Section 2(11) of the Act is sufficient to confer supervisory status upon an individual provided that such authority is exercised with independent judgment on behalf of management. Hydro Conduit Corporation, 254 NLRB 433, 437 (1981). However, the exercise of this authority in a merely routine, clerical, perfunctory or sporadic manner does not confer supervisory status. Chicago Metallic Corp., 273 NLRB 1677 (1985). Further, employees who are mere conduits for relaying information between management and other employees are not statutory supervisors. Bowne of Houston, Inc., 280 NLRB 1222, 1224 (1986).

In enacting Section 2(11) of the Act, Congress stressed that only persons vested with "genuine management prerogatives" should be considered supervisors, as opposed to "straw bosses, leadmen . . . and other minor supervisory employees." Chicago Metallic Corp., 273 NLRB at 1688.

The burden of proving supervisory status rests on the party alleging that such status exists. E.g., North Jersey Newspapers Company, 322 NLRB 394 (1996); Tucson Gas & Electric Company, 241 NLRB 181 (1979). In this case, therefore, that burden rests with the Employer.

For the reasons which follow, I find that the Employer has not met its burden with respect to the tech V's at issue herein.

As noted, the Employer contends that the tech V's are supervisors in that they recommend candidates for hire, direct and assign other employees in the performance of their duties, review and evaluate the performance of other employees, counsel employees for disciplinary issues, and possess secondary indicia of supervisory status. There is no contention on the part of the Employer, nor would the evidence support such an argument, that the tech V's transfer, suspend, lay off, recall, discharge, reward or adjust the grievances of employees.

The record indicates that the tech V's assignment and direction of work is based upon their technical expertise and experience, rather than upon a true exercise of supervisory authority. See PECO Energy Company, 322 NLRB 1074, 1082 (1997); S.D.I. Operating Partners, L.P., 321 NLRB 111 (1996); Chevron Shipping Co., 317 NLRB 379, 381-382 (1995); Brown & Root, Inc., 314 NLRB 19, 20 (1994); Hexacomb Corporation, 313 NLRB 983, 984 (1994). That is, the tech V's are primarily responsible, because of their skills and expertise, for ensuring that the Employer's operating procedures are followed. Thus, as leadmen, the tech V's provide direction and guidance to the other engineering technicians involved in the particular task based upon the tech V's experience and skills. The tech V's assign employees to perform the various necessary jobs according to the skills that the employees have previously demonstrated. In this regard, it is noted that the discretion of the tech V's in the assignment of work is limited by the mix and number of employees on the crew and the limited number of job tasks to be performed by any one crew. Moreover, as noted above, a number of the crews remain fairly constant in composition and some crew members perform fairly specialized tasks. The responsibilities of the tech V's in this regard involve no real managerial discretion that would require the exercise of independent judgment.

The record indicates that the tech V's have first line responsibility for maintaining safety rules and procedures at the facility, which includes the preparation of accident and incident reports. However in this area as well, the tech V's responsibility is essentially of a routine

nature involving the application of established rules and procedures and carries with it no independent disciplinary authority in case of a breach. The reports of the accident or injury appear to be of a clerical nature consisting of an anecdotal report. The recommendations for corrective action appear to be a reflection of the greater skill and training, including safety training, possessed by the tech V's. There is no evidence of a tech V taking or effectively recommending any personnel action to be taken against a lower ranked technician based on any such accident or injury. Further, the authority of the tech V's to send an employee home if the tech V observes that the employee is unfit for duty by virtue of some physical or mental impairment does not confer supervisory status. In the Board's well-established view, such situations do not involve the use of independent judgment because the offenses are obvious violations of the Employer's safety protocols. Chevron Shipping Co., 317 NLRB at 381; Beverly Enterprises-Ohio d/b/a Northcrest Nursing Home, 313 NLRB 491, 497 (1993); Manor West, Inc., 313 NLRB 956, 959 (1994).

Other attributes of the tech V's jobs, such as the availability of offices, their contact with vendors and their interactions with engineers, all reflect the nature of their job duties, and are not indicative of supervisory status. Finally, the higher rate of pay of the tech V's is set by the government contract and reflects their job experience, skills and abilities. Upshur- Rural Electrical Cooperative Corporation, 254 NLRB 709 (1981).

It is undisputed that all hiring is done by the Program Manager. Although the tech V's participate in the interview process, this participation is limited to an assessment of the candidates' ability to perform the job duties, and is just one of the factors considered by Reehl. Moreover, the evidence does not demonstrate that the recommendations made by the tech V's are effective. To the contrary, the evidence reveals that of the five recommendations in the record, four were not followed by Reehl.

With respect to the tech V's completion of annual performance evaluations, it is well-established that the ability to evaluate employees, without more, is insufficient to establish supervisory status. Passavant Health Center, 284 NLRB 887, 891 (1987). This factor has been

deemed unpersuasive in the absence of evidence that an employee's job was affected by such an evaluation. Manor West, Inc., 313 NLRB at 959 In the instant case, performance evaluations do not affect the wages of employees as wages are established under the government contract. Although the Employer asserts that the evaluations are considered in granting promotions, the availability of promotions is also controlled by the government contract. In this regard, the sole record evidence regarding promotions is that on one occasion, the annual performance evaluations, in conjunction with summary evaluations prepared by the tech V's and the observations of the Operations Manager, were considered by the Program Manager in promoting three tech II's to tech III positions.

The involvement of the tech V's in disciplinary matters does not render them supervisors within the meaning of Section 2(11) of the Act. The record evidence in this case clearly indicates that the tech V's do not discipline other employees nor do they effectively recommend disciplinary action. The role of the tech V is merely to discuss incidents of unacceptable behavior or work performance with the employee and if unable to resolve the problem, to verbally report the situation to upper management. The tech V's impose no discipline and make no recommendations with respect to the nature of discipline imposed by upper management. There has been no showing that any tech V has ever given an anecdotal report that has had any impact upon an employee's job status without independent review by higher management. The Board has consistently held that reports of unacceptable behavior or work performance which do not result in any personnel action, or if they do, where such action is not taken without independent investigation by others, as is the case herein, is not sufficient to confer supervisory status. Illinois Veterans Home at Anna L.P., 323 NLRB 890 (1997); North Jersey Newspapers Company, 322 NLRB at 395; S.D.I. Operating Partners, L.P., 321 NLRB at 112.

With respect to the assignment of overtime, the record reflects that the tech V's have limited discretion. The Board has long held that such an assignment of overtime which is perfunctory in nature and does not evidence the exercise of any appreciable degree of independent judgment does not make the individual a supervisor. Illinois Veterans Home, 323

NLRB at 892; Chevron Shipping Co., 317 NLRB at 381. Similarly, several other functions performed by the tech V's are merely clerical and routine in nature. The authority to permit employees to leave work early has been found to be insufficient to confer supervisory status. North Jersey Newspapers Company, 322 NLRB at 395; Northcrest Nursing Home, 313 NLRB at 505. Further, the tech V's responsibilities with respect to initialing time sheets to verify the accuracy of the time reported clearly does not involve the exercise of independent judgment. PECO Energy Company, 322 NLRB at 1083; Manor West, Inc., 313 NLRB at 957.

Finally, inasmuch as the evidence fails to establish that the tech V's are supervisors within the meaning of Section 2(11) of the Act, it is not necessary to reach the issue of supervisory ratio, because supervisory ratio is a non-statutory secondary indicium. North Jersey Newspapers Company, 322 NLRB at 395.

Accordingly, based on the above and the record as a whole, I find that the tech V's are not supervisors within the meaning of the Act and I shall include them in the petitioned-for unit.

Community of Interest of Tech IV's Functioning as Analytical Chemists

In addition to asserting that the tech V's are supervisors, the Employer, contrary to the Petitioner, asserts that the tech IV's functioning as analytical chemists (hereinafter analytical chemists) do not share a community of interest with the other petitioned-for engineering technicians and therefore, must be excluded from the unit.

The analytical chemistry group is under the direction of Group Leader Hreha, and is comprised of four degreed chemists¹⁶ and the two analytical chemists. The analytical chemistry group is responsible for performing the analyses on samples that are generated during the tests performed at the facility. Specifically, the analytical chemists at issue herein perform elemental analyses and sieve analyses. In performing these analyses, they utilize computers, calibrate instrumentation and make judgments about samples. The analytical chemists are trained in all analyses presently performed at the facility except for one test performed by a Ph.D. Chemist.

¹⁶ The parties have stipulated, and I find, that these chemists do not share a community of interest with the petitioned-for unit.

The analytical chemist position was created about ten years ago, when the analytical chemistry group had an increase in work and there was a corresponding decrease in work for the engineering technicians. Instead of laying off any engineering technicians, it was decided to transfer the incumbent analytical chemists to their current positions, and to provide them with the necessary training to perform simpler tasks. Hreha estimates that over the years, they have gained sufficient knowledge and skills so that they are functioning on the level of an individual possessing an associate's degree in chemistry.

The analytical chemistry group is located in Building 94 ¹⁷ and works 8 a.m. to 4:30 p.m. The analytical chemists have retained their tech IV payroll classification and thus are paid at the tech IV wage rate. The analytical chemists receive the same benefit package as all other employees at the facility.

As set forth above, the analytical chemists are paid on the same wage scale and have the same benefits as the other engineering technicians. Further, they work similar daylight hours and work in the same general location as the other engineering technicians. However, the analytical chemists have received specialized training and acquired specialized skills and perform job functions totally unrelated to those performed by the other engineering technicians. Their different job duties are reflected by the fact that they report to Group Leader Hreha, and not to Operations Manager Valdisera. Moreover, there is no interchange between the analytical chemists and the other engineering technicians, while there is interchange among the engineering technicians, especially among those technicians who are assigned to the crews that vary in composition. Thus, given the overriding differences in job functions, skills and expertise, as well as the different reporting relationships, and lack of interchange, I conclude that the analytical chemists do not share a community of interest with the engineering technicians sufficient to make their inclusion in the unit appropriate. United Finish Division of the Chemical

¹⁷ Located in the basement of this building, separate from the analytical chemistry labs, is the Fischer-Tropsch unit.

Division of Beatrice Foods Co., 222 NLRB 883 (1976); Arkansas Grain Corporation, 163 NLRB 625, 630-631 (1967). In making this determination, I note that while the unit sought by the petitioner is always a relevant consideration in unit determinations, it is not given controlling weight. Overnite Transportation Company, 322 NLRB 723 (1996).

Accordingly, based on the above and the record as a whole, I shall exclude the analytical chemists from the petitioned-for unit in that they do not share a community of interest with the petitioned-for engineering technicians.

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time engineering technicians I, II, III, IV and V employed by the Employer at the United States of America Department of Energy Bruceton facility, Allegheny County, Pennsylvania; excluding all office clerical employees, the engineering technicians IV functioning as analytical chemists and guards, professional employees and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the undersigned Regional Director among the employees in the unit set forth above at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.¹⁸ Eligible to vote are those employees in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who

¹⁸ Pursuant to Section 103.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.¹⁹ Those eligible shall vote whether or not they desire to be represented for collective bargaining by United Mine Workers of America, International Union, AFL-CIO, CLC.

Dated at Pittsburgh, Pennsylvania, this 12th day of August 1999.

/s/Gerald Kobell

Gerald Kobell
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD
Room 1501, 1000 Liberty Avenue
Pittsburgh, PA 15222

177-8560-1000
420-2966

¹⁹ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc. 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, Room 1501, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before August 19, 1999. No extension of time to file this list may be granted, except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.